

RESOLUTION NO. 82-25

RESOLUTION APPROVING MODIFICATION OF THE DEFERRED COMPENSATION AGREEMENT AND PLAN, WHEREBY THE CITY OF LODI AGREES TO CONTRACT FOR THE SERVICES OF HOME SAVINGS AND LOAN ASSOCIATION TO PERFORM FOR THE CITY CERTAIN FUNCTIONS IN THE CONTINUING OPERATION OF THE DEFERRED COMPENSATION PLAN

RESOLVED that the City Council of the City of Lodi does hereby approve modifications of the City's Deferred Compensation Agreement and Plan, a copy of which agreement and plan are attached hereto, marked Exhibit "A" and thereby made a part hereof.

BE IT FURTHER RESOLVED that the City Council of the City of Lodi does hereby approve Deferred Compensation Agreement dated March 17, 1982 whereby the City of Lodi agrees to contract for the services of Home Savings and Loan Association to perform for the City certain functions in the continuing operation of the City's Deferred Compensation Plan.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Lodi does hereby authorize the Mayor and City Clerk to execute the aforementioned agreement on behalf of the City of Lodi.

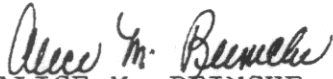
Dated: March 17, 1982

I hereby certify that Resolution No. 82-25 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 17, 1982 by the following vote:

Ayes: Councilmen - Hughes, Pinkerton, Murphy,
Katnich and McCarty

Noes: Councilmen - None

Absent: Councilmen - None


ALICE M. REIMCHE
City Clerk

C I T Y O F L O D I

EMPLOYEES' DEFERRED COMPENSATION PLAN

SECTION 1.

NAME: The name of this Plan is the City of Lodi Employees Deferred Compensation Plan (hereinafter referred to as the "Plan").

SECTION 2.

PURPOSE: The purpose of this Plan is to enable Employees of the City of Lodi, California, to defer portions of their compensation and to provide retirement, disability and death benefits.

In accordance with Sections 53212 - 53214 of the Government Code of California, it is intended that the plan constitute an "eligible State Deferred Compensation Plan" within the meaning of, and that the Plan satisfy the requirements of Section 457 of the Internal Revenue Code.

SECTION 3.

DEFINITIONS: For the purpose of this Plan, certain words or phrases used herein will have the following meanings:

- 3.1 "Employer" means the City of Lodi.
- 3.2 "Employee" means any officer or full time employee as defined in the personnel ordinances of the Employer.
- 3.3 "Participant" means any eligible Employee who elects, pursuant to the Plan, to defer a portion of his/her compensation, and who fulfills the requirements for participation in the Plan.
- 3.4 "Participation Agreement" shall mean the written agreement by which an Employee elects to become a Participant under the Plan.
- 3.5 "Beneficiary" may be any person, trust, corporation or firm, or the estate of the participant, or any combination of the foregoing designated by a Participant to receive benefits under the Plan. Designation shall be by written instrument executed by the Participant unless otherwise provided. Beneficiary may be singular or plural, primary or contingent.
- 3.6 "Administrator" means the duly authorized party or parties appointed by the Employer to act as the Employer's agent in administering the Plan.

- 3.7 "Advisory Committee" shall mean that body designated to operate and oversee the plan.
- 3.8 "Compensation" means the full basic salary or wage which would be paid by the Employer to or for the benefit of an Employee for actual services for the period that he is a Participant.
- 3.9 "Payroll Period" means the work period for which a pay check is issued.
- 3.10 "Includible Compensation" means compensation for services performed for Employer which is currently includible in gross income.
- 3.11 "Retirement" means retirement from service with the Employer which becomes effective on the first day of the calendar month after Participant meets the age and service requirements for retirement (including "early" or "late" retirement) specified in the applicable retirement policies of the Employer.

SECTION 4. PARTICIPATION IN THE PLAN

4.1 Any Employee may elect to become a Participant in the Plan by executing and filing a Participation Agreement with the Administrator. An election to participate in the Plan shall become effective with respect to compensation earned by the Participant during the second full pay period following the date of the Participant's election. Such election shall continue thereafter in full force and effect unless revoked by the Participant.

4.2 Each Participation Agreement shall specify the amount, by dollar amount or by percentage of gross compensation, which is to be deferred pursuant to the Plan and to be withheld out of the compensation otherwise payable to the Participant for each Payroll Period. The amount deferred each year may not exceed the lesser of \$7,500 or 33 1/3% of the Participant's Includible Compensation. Such deferred amounts shall be reasonably equal installments totaling not less than Ten Dollars (\$10.00) per Payroll Period or 2% of the Employee's Compensation, whichever is the greater.

The annual minimum may be prorated during the inception year, or during a partial year for a new

or newly eligible Employee, for full Payroll Periods remaining in the first calendar year of participation.

4.3 Notwithstanding the provisions of Section 4.2 herein, during any or all of the last 3 tax years ending before a Participant's normal retirement age the maximum amount deferred annually shall be the lesser of \$15,000 or the sum of the maximum amount which can be deferred pursuant to Section 4.2 plus the difference between the amount which could have been deferred in prior years and the amount actually deferred pursuant to the Plan.

4.4 A Participant may revoke his election to participate in the Plan, and thereby terminate further deferral of his Compensation, by executing and filing with the Administrator a notice of revocation at least thirty (30) days prior to the effective date of revocation. A former Participant may not file a new participation agreement until 90 days after the revocation occurred. No amounts shall be payable to an Employee upon revocation of his participation in the Plan unless otherwise provided for in Section 7.

4.5 A Participant may change the amount of Compensation to be deferred or preference of investment objective in a subsequent pay period by executing and filing notice with the Administrator at least 30 days prior to the beginning of such pay period, provided, however, that such change may be made not more than two times in a calendar year.

4.6 A Participant may designate in writing a Beneficiary to receive any benefits which may be payable under the Plan upon the death of such participant. Designation of Beneficiary may be changed by notice in approved form executed and filed with the Administrator.

SECTION 5. DEFERRAL OF COMPENSATION

5.1 During the period of participation, the Employer shall not pay the Participant his full compensation, but shall defer payment of such part of his Compensation as the Participant has specified in his Participation Agreement. The Employer shall establish in its records a separate fund known as the "Investment Fund". This account is to provide a convenient method of setting aside a portion of its assets to meet the Employer's

obligations to each and all Participants under the Plan.

5.2 Neither the existence of the Plan nor the Investment Fund shall be deemed to create a trust, or Custodial Account for or in behalf or for the benefit of any participant.

5.3 The employer may allow participants to choose from among the following investment objectives: annuities, life insurance, savings account, shares in mutual funds, or any investments allowed by the laws of the State of California.

5.4 The employer may invest and reinvest amounts in the investment fund in any investment authorized by California Government Code Section 53609 as now in effect or as the same may be amended or revised which in the employer's sole judgment will best achieve the employers objectives. The employer may, but is not required to, invest in the investment vehicle provided in Section 5.3.

5.5 Participation Accounts

The Employer shall cause to be established for each Participant a Participation Account to provide a

convenient method of measuring the City's obligations to the Participant under the Plan. The City shall cause to have credited to each Account amounts equal to the Compensation deferred by the Participant under the Plan. The assets of the Account shall be invested in such investments as the Plan may allow pursuant to Section 5.3. Participation Accounts shall at all times remain part of the general assets of the City and shall remain available for the payment of City obligations. Each Participant's Participation Account shall further be credited with earnings, gains, or losses applicable to such investments. Each Participation Account will be valued at least semi-annually.

- 5.6 Notwithstanding any other provisions of this Plan, the Employer may make additional deposits in the Investment Fund as additional Compensation for services to be rendered by the Employee provided, (1) the Employee has elected to have such additional Compensation deferred, invested, and distributed pursuant to this Plan, prior to the Employment Period in which the Compensation will be earned, and (2) that such additional deposits shall not exceed the maximum deferral permitted in Sections 4.2 and 4.3.

SECTION 6. ADMINISTRATION OF THE PLAN

6.1 Designation of Advisory Board

The Employer shall designate six (6) employees to serve as an administrative committee to act in the Employer's behalf. Any such designation may be subsequently changed by the Employer.

Any action of the Advisory Board shall be deemed action of the Employer and shall be deemed to be taken in accordance with the purpose of this Plan.

6.2 Authority

One or more authorized members of the Advisory Board may execute any document or documents on behalf of the Employer. The Employer shall accept and rely exclusively upon any direction or document executed by such authorized member(s) as representing action by the Employer until the Employer revokes such designation.

6.3 Duties

The Advisory Board shall enforce this Plan in accordance with its terms and shall be charged with

its general administration. The Advisory Board shall exercise all of its discretion in a uniform manner and shall be responsible to accomplish those purposes, including but not limited to the authority and responsibility:

- a. To determine all questions relating to the eligibility of Employees to participate;
- b. To compute and certify to the Employer the amount and kind of benefits payable to Participants and their Beneficiaries;
- c. To maintain all data, records, documents, and papers pertaining to the administration the Plan;
- d. To authorize all disbursements by the Employer from the Investment Fund;
- e. Subject to the limitations set forth in Section 5.3, to direct the investments to be made by the Employer in a manner consistent with the investment authorized by this Plan;
- f. To make such rules for the regulation of the Plan as are not inconsistent with the terms hereof, which determination shall be conclusive and binding

on all Participants, applicants for participation in the Plan, Beneficiaries and the Administrator;

6.4 The Employer may employ or contract with any one or more persons or organizations to render consultation and/or advice and/or to perform services with regard to responsibilities of the Advisory Board under the Plan. Said Administrator shall be selected by the Employer after consideration of recommendations by the Advisory Board. The Administrator shall be governed by the Advisory Board. Persons or organizations eligible to act as Administrator may include, without limitation, actuaries, attorneys, accountants, and pension, benefits, financial, and administrative consultants.

a. Administrator's Capacity. Any such person so employed or independently contracted for shall act in an advisory consulting capacity only and shall not constitute a fiduciary solely by reason of so acting; and the employment or contracting of any such persons shall not relieve the Advisory Board from its responsibility under this Plan.

b. Allocation of Duties to Administrator.

The Advisory Board may, from time to time, allocate to the Administrator any of the Board's rights, powers, duties, and/or responsibilities with respect to the operation and administration of the Plan. No such allocation or delegation shall be deemed to have occurred unless the same be in writing to the Employer. Any such allocation and delegation shall be reviewed at least annually and shall be terminable upon such notice to the Employer as the Advisory Board deems reasonable and prudent under the circumstances.

6.5 No less frequently than semi-annually, the Employer and the Participant shall be furnished with written reports showing the fair market value and/or the current balance of the amount invested (including interest and dividends accrued, if any), and amounts shown in such reports shall be reflected in each Participant's Participation Account by the Employer.

6.6 The Employer shall have the sole right to vote any shares of stock or proxies which it may acquire or be entitled to by investment of Deferred Compensation funds.

6.7 Prior to the time specified in the Plan for payment to Participant each Participant shall elect the time, manner and (if Applicable) the amount of benefits to be paid to him, or in the event of his death to his Beneficiary, under the Plan. If no election is made, payment may be made as a lump sum distribution.

6.8 In the event that the Employer should purchase an annuity as a means of investment and distribution of funds in the Participant's Account, the Employer shall be the owner of such annuity contract. The rights to the participant shall be limited to the right to receive monthly payments pursuant to such policy.

SECTION 7. BENEFITS

The Employer shall pay to the Participant, or to his Beneficiary if applicable, the amount in such Participant's Account as of the month-end following the Participant's termination, retirement, total disability or death. Distribution of Benefits under the Plan will be made, or if in installments shall commence, not later than sixty (60) days after notice to the Administrator of the occurrence of the events described in this Section unless otherwise specifically provided in the Participation Agreement. All distributions

shall be subject to any State or Federal taxes required to be withheld. Payment shall be made in accordance with the election made in the Participation Agreement, except in the event of Hardship described in Section 7.3.

Installment distributions shall be in approximately equal installments which shall be intended to exhaust the balance due Participant or Beneficiary at the expiration of the term over which they will be made. Such installment amounts may be adjusted from time to time to take into consideration gains or losses, if any, from funds invested.

Notwithstanding the foregoing if any method elected by the Participant shall result in installment payments of less than \$25, the Employer shall make payments on an annual basis aggregating installments otherwise due; or if the balance due Participant or Beneficiary is less than \$1,000, Employer shall discharge its obligation by a lump sum payment.

7.1 SEPARATION FROM SERVICE. In the event of a Participant's separation from service, the full benefits credited to the Participant's Account, plus or minus investment gains or losses, but less any Federal or State taxes required to be withheld, shall be distributed to a Participant in any one or more of the following ways, so elected by the

Participant subject to the employer's discretion pursuant to Section 6.7.

7.1(a) Lump Sum Payment. The total balance payable in one cash payment.

7.1(b) Life Annuity. An annuity payable annually, quarterly or monthly to the Participant during a period of years measured by the lifetime of the Participant or the Participant's spouse if so selected; however, in no event shall the Employer distribute to the Participant, Participant's spouse, and/or Beneficiary(s) more than the balance in the Participant's Participation Account. If the Employer finances this distribution with the purchase of an annuity, no amounts will be payable to the Participant, his or her estate, or any Beneficiary(s) upon the death of the measuring life.

7.1(c) Joint and Survivor Annuity. An annuity payable annually, quarterly or monthly to the Participant and the Participant's spouse during a period of years measured by the joint life and last survivor expectancy

of the Participant and Participant's spouse; however, in no event shall the Employer distribute to the Participant, Participant's spouse, and/or Beneficiary(s) more than the balance in the Participant's Participation Account. If the Employer finances this distribution with the purchase of an annuity, no amounts will be payable to the estate of Participant or Participant's spouse, or to any Beneficiary of Participant or Participant's spouse, at the death of the survivor of Participant and Participant's spouse.

7.1(d) Payments for a Specified Period - Participant as Recipient. Annual, quarterly or monthly payments to Participant over a term not to exceed thirty (30) years, which term does not exceed the life expectancy of the Participant, in amounts calculated to liquidate the Participant's Participation Account as of the last payment. In the event of the death of the Participant before the end of the selected term, the payments will continue to the named Beneficiary for a period not exceeding the

lesser of (i) the amount of years remaining under the selected term or (ii) five (5) years.

7.1(e) Payments for a Specified Period - Participant and/or Participant's Spouse as Recipients. Annual, quarterly or monthly payments to Participant and/or Participant/s spouse over a term not to exceed thirty (30) years, which term does not exceed the joint life and last survivor expectancy of the Participant and Participant's spouse in amounts calculated to liquidate the Participant's Participation Account as of the last payment. In the event of the death of the Participant and the Participant's spouse before the end of the selected term, the payments will continue to the named Beneficiary for a period not exceeding the lesser of (i) the amount of years remaining under the selected term or (ii) five (5) years.

7.2 DEATH: In the event of death of any Participant, either before or after termination of employment, then the full benefits credited to his Account

shall be distributed to his Beneficiary in a manner described in Section 7.1 as pre-elected at time of enrollment.

- 7.3 HARDSHIP: In the event of occurrence to the Participant of an unforeseeable emergency event to be determined by the Employer in his sole discretion, the Employer may pay to the Participant all or any portion of the amount in such Participant's Account as of the month-end following the date when such determination is made. As used herein, emergency event shall mean only a real emergency which has occurred, which is or was beyond control of the Participant, and the occurrence of which has or would cause the Participant great financial hardship. The amount that will be paid out shall be limited to the amount necessary to alleviate that hardship.

Any distribution under this section shall be deemed a revocation under Section 4.4 and no further deferral of Compensation will be made unless Participant subsequently re-elects to participate as provided in Section 4.4.

- 7.4 Election to Postpone Payout. If a Participant voluntarily terminates employment, the Participant

may request that the Employer withhold the payment of benefits until such Participant reaches an age no greater than 65. This election must be made,

if at all, prior to the earliest distribution date allowable under this Plan.

SECTION 8. MISCELLANEOUS

8.1 The contractual obligation of the Employer to the Participant established by the Plan shall not be assignable in whole or part, voluntarily or by operation of law, and no right or interest of a Participant pursuant to the Plan shall be subject to any obligation or liability of such Participant or his Beneficiary, except as provided in the next paragraph hereinbelow.

8.2 No Participant or other person shall have any legal or equitable right against the Employer except as provided in the Plan, and in no event shall the terms of employment of any Employee or Participant be modified or in any way affected thereby.

8.3 Each Participant herein expressly agrees for himself and his Beneficiary that he shall look solely to the general assets of the Employer for

the payment of any such benefit to which he may become entitled under the Plan, and acknowledges that all amounts deferred hereunder shall be available to satisfy the general obligations of the Employer.

8.4 The Plan has been adopted in the State of California and shall be construed and governed and administered in compliance with all applicable State law.

8.5 Captions used in the Plan are for the purpose of convenience only, and shall not limit, restrict or enlarge the provisions of the Plan.

8.6 The Plan shall be binding upon and shall inure to the benefit of the Employer, its successors and assigns, all Participants and Beneficiaries, and their heirs, and legal representative.

8.7 As used in the Plan, the masculine or feminine or neuter gender, and the singular or plural number shall each be deemed to include the others unless the context clearly indicated otherwise.

8.8 Any notice or other communication required or permitted under the Plan shall be in writing and,

if directed to the Employer, shall be sent to the Administrator at his principal office; and, if directed to a Participant or a Beneficiary, shall be sent to such Participant or Beneficiary at his last known address as it appears on the Employer's records. Such notice shall be deemed given when mailed.

8.9 Deductions for Participant's contributions to retirement associations shall be made without reference to amounts deferred pursuant to the Plan.

8.10 An approved leave of absence without pay shall be considered to be a temporary suspension of participation in the Plan. Participation shall be automatically reinstated as of the first day of the next Pay Period subsequent to the termination of such leave of absence status.

8.11 The Employer shall make no loans or advances to the Participant or Beneficiary based upon Accounts, described herein, or upon any other obligations under the Plan.

DEFERRED COMPENSATION PLAN

City of Lodi
Employees' Deferred Compensation Plan
Accepted by the Lodi City Council in
motion action taken May 19, 1982

ALICE M. REIMCHE
City Clerk